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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STATELINE PROCESSORS, INC., a
corporation, and MARIE KIMBLE and
GARY W. HEATON, individuals,

Defendants.

FILED IN THE
U. S. DISTRICT COURT
Eastern District of Washington

JUN 5 1986

J. R. FALLOQUIST, Clerk
FILED IN THE
U. S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUL 18 2005

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

Civil No. C-86-268-JLQ

CONSENT DECREE OF
PERMANENT INJUNCTION

The United States of America, having filed its complaint on the 9th day of May, 1986, and the defendants, Stateline Processors, Inc., a corporation, Marie Kimble and Gary W. Heaton, individuals, having appeared in person or by counsel and having consented to the entry of this decree and to each and every provision thereof without contest and before any testimony has been taken, and the United States of America having consented to the entry of this decree and to each and every provision thereof, and having moved this court for this injunction;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This court has jurisdiction over the subject matter and over all parties to this action.

2. The Complaint for Injunction states a cause of action against the defendants under the Federal Food, Drug, and Cosmetic Act (the Act), 21 U.S.C. 301 et seq.

CONSENT DECREE
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CLERK U.S. DISTRICT COURT
SPOKANE, WASHINGTON

1 3. The defendants, Stateline Processors, Inc., a corporation, Marie
2 Kimble and Gary Heaton, individuals, and each and all of their officers,
3 agents, servants, representatives, employees, attorneys, successors or
4 assigns, and each and all persons in active concert or participation with
5 them, shall be enjoined from directly or indirectly receiving, preparing,
6 or packing articles of food at any of the defendants' grain elevator
7 facilities or from selling, distributing, or shipping any articles of food
8 from said facilities unless and until:

9 A. The defendants assure that the methods, facilities, and controls
10 used for receiving, preparing, packing, and holding articles of food in
11 the facilities are established and implemented so that articles of food
12 are not contaminated by rodent, bird, or other filth. Such methods, facili-
13 ties, and controls shall specifically include but shall not be limited to
14 the following:

15 1) eliminating all rodents, birds, and other vermin from the facil-
16 ity, and closing all routes for their ingress and egress;

17 2) thoroughly cleaning, renovating, and rendering the facilities
18 and all equipment in them suitable for use in receiving, preparing, pack-
19 ing, and holding articles of food to preclude their contamination with
20 filth, and instituting procedures to maintain the facilities and equipment
21 therein in such condition;

22 3) establishing a written sanitation control program for the facili-
23 ties and all their food handling equipment that will assure that they are
24 maintained in a sanitary condition so as to prevent the contamination of
25 food with rodent, bird, or other filth; and

26 4) assigning responsibility for the operation of the sanitation
27 control program to a person who by reason of background, experience or
28 education in sanitation work is competent to maintain the facilities in a

1 sanitary condition;

2 B. The defendants report, in writing, to the Food and Drug Admini-
3 stration (FDA) what action they have taken to assure that articles of
4 food received, prepared, packed, and held at their facilities are not
5 contaminated with filth;

6 C. FDA notifies the defendants in writing that the defendants appear
7 to be in compliance with the requirements set forth in paragraph A; and

8 D. All articles of food on hand at the facilities are examined for
9 filth by the defendants under the supervision of, and in accordance with
10 methods approved by FDA, after which reports of such examinations shall be
11 submitted to the FDA. Additional analyses and examination of the articles
12 may be made by the FDA, as are deemed necessary, to assure that the arti-
13 cles are not contaminated with filth. All articles of food which examin-
14 ation or analysis show are contaminated with filth shall be destroyed or
15 otherwise brought into compliance with the law by the defendants under the
16 supervision of FDA. All expenses of such supervision, analyses and exam-
17 inations by the FDA shall be paid by the defendants at the rates specified
18 below.

19 4. The defendant, Stateline Processors, Inc., shall reimburse the
20 FDA for the costs of any FDA inspections and examinations necessary to
21 evaluate the defendants' compliance with any part of this consent decree
22 of injunction at a rate of \$37.00 per hour and fraction thereof per
23 representative for inspection work, \$44.00 per hour or fraction thereof
24 per representative for analytical work, \$.205 per mile travel expenses,
25 and \$50.00 per day for subsistence expenses where necessary.

26 5. The defendants shall permit duly authorized FDA representatives
27 to make inspections, including inspections of the facilities, articles of
28

1 food therein, and equipment, to examine and copy all shipping records and
2 to take photographs as necessary in order to determine that the require-
3 ments of this decree have been met, the costs of any such inspection to
4 be borne by the defendants at the rates specified above. Such inspections
5 shall be authorized upon presentation of a copy of this decree and appro-
6 priate credentials, such inspection authority to be apart from, and in
7 addition to, the authority to make inspections under the Act, 21 U.S.C. 374.

8 6. That after compliance with paragraph 3 of this Consent Decree
9 of Permanent Injunction, the defendants, Stateline Processors, Inc., a
10 corporation, Marie Kimble and Gary W. Heaton, individuals, and each and all
11 of their directors, officers, agents, servants, representatives, employees,
12 attorneys, successors or assigns, and any and all persons in active concert
13 or participation with them shall be and are hereby enjoined under 21 U.S.C.
14 332(a) from directly or indirectly causing the adulteration of any article
15 of food, which has been received, prepared, packed, or held at any of the
16 defendants' facilities, and also from introducing, or offering for delivery
17 into interstate commerce any adulterated food.

18 7. The defendants shall provide a copy of this Consent Decree of
19 Permanent Injunction to each officer, director, and employee of Stateline
20 Processors, Inc., within 10 days of the date of entry of this injunction
21 by the court, and shall provide FDA with an affidavit of compliance within
22 30 days stating the fact and manner of compliance and identifying the
23 names and positions of all persons so notified.

24 8. The defendants shall notify the Seattle District Office of the
25 FDA at least 10 days before any reorganization, dissolution, assignment,
26 or sale resulting in the emergence of a successor corporation, the creation
27 or dissolution of subsidiaries, or any other change in the corporate
28 structure of Stateline Processors, Inc., that may affect compliance obli-

gations arising out of this decree of permanent injunction.

9. The jurisdiction of this court is retained for the purpose of enforcing or modifying this decree and for the purpose of granting additional relief as may hereafter appear necessary or appropriate.

10. That plaintiff is granted judgment for and shall recover its costs herein.

DATED this ^{5th} day of June, 1986.

DAVID L. GREENBUSH

UNITED STATES DISTRICT JUDGE

Entry consented to:

Stateline Processors, Inc., Defendant

By: Gary W. Heaton, Treas. & Gen. Manager

Marie Kimble Pres
MARIE KIMBLE, Defendant

Gary W. Heaton
GARY W. HEATON, Defendant

Theodore F.S. Rasmussen
THEODORE F.S. RASMUSSEN
Attorney for Defendants

William H. Beatty
WILLIAM H. BEATTY
Assistant United States Attorney
Attorney for Plaintiff